

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 25 2018 ★

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

-----X
MARIA RAJACIC,

BROOKLYN OFFICE
Civ. _____

Plaintiff,

-against-

CV 18-4212

COSTCO WHOLESALE CORPORATION,

Defendant.
-----X

IRIZARRY, CH.J.

REMOVAL PETITION

REYES, M.J.

To the Honorable Judges of the United States District Court for the Eastern District of New York, the defendant, COSTCO WHOLESALE CORPORATION by their attorneys, Connors & Connors, P.C., state the following upon information and belief:

1. That COSTCO WHOLESALE CORPORATION is a defendant in the above-entitled action.
2. That MARIA RAJACIC is the plaintiff in the above entitled action.
3. That on May 29, 2018 this action was commenced against COSTCO, in the Supreme Court of the State of New York, County of New York, and is now pending.

The action is captioned:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
-----X

MARIA RAJACIC,

Index No. 154976/2018

Plaintiff,

-against-

COSTCO WHOLESALE CORPORATION,

Defendant.
-----X

4. No further proceedings have been had in the Supreme Court of the State of New York, County of New York.

5. As per the allegations contained in the complaint, the amounts in controversy in this action allegedly exceeds the amount of recoverable in the lower courts of the City and State of New York, exclusive of interest and costs.

6. As per plaintiff's Response to Ad Damnum Demand dated July 16, 2018, plaintiff's attorneys, David Horowitz, P.C., demands judgment in excess of \$75,000. As such this case is a candidate for removal pursuant to 28 USC.1332.

7. This Notice of Removal is being filed within 30 days of being advised by plaintiff's counsel that the settlement demand was in excess of \$75,000.

8. Upon information and belief, COSTCO WHOLESALE CORPORATION is incorporated in the State of Washington.

9. Upon information and belief, COSTCO WHOLESALE CORPORATION is a company organized and existing under and by virtue of the laws of the State of Washington.

10. This is an action for damages for personal injury resulting from the alleged negligence of the defendant occurring at a Costco store located at 2975 Richmond Avenue, Staten Island, New York.

11. This Honorable Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332 and the action may therefore be removed to this Honorable Court pursuant to 28 U.S.C. §1441.

12. A copy of the Summons and Complaint received by Defendant is annexed hereto as Exhibit A.

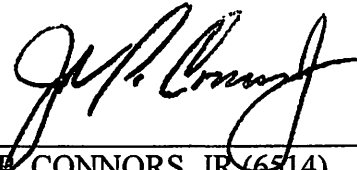
13. That on June 6, 2018, our Answer was served on behalf of Costco Wholesale Corporation. Exhibit B.

14. That a copy of this Notice and Petition for Removal will be served on the attorney for the plaintiff and a copy will be filed with the Clerk of the Supreme Court of the State of New York, County of New York.

15. That no previous application for the relief sought herein has been made to this or any court with regard to the Summons and Complaint at issue herein.

WHEREFORE, defendant, COSTCO WHOLESALE CORPORATION prays that the above-entitled action now pending against them in the Supreme Court of the State of New York, County of New York, be removed to this Honorable Court.

Dated: Staten Island, New York
July 23, 2018

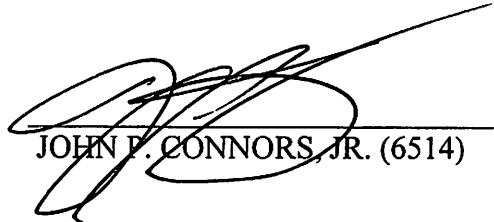


JOHN F. CONNORS, JR. (6514)
CONNORS & CONNORS, P.C.
Attorneys for Defendants,
COSTCO WHOLESALE CORPORATION
766 Castleton Avenue
Staten Island, New York 10310
Tel. 718.442.1700
File No. DCW 26625

TO: David Horowitz, P.C.
Attorneys for Plaintiff
171 Madison Avenue
Suite 1300
New York, NY 10016
Tel. 212.684.3630

CERTIFICATE OF SERVICE

I, JOHN P. CONNORS, JR., hereby certify that a copy of the foregoing, **REMOVAL PETITION** was mailed by first class mail, postage prepaid on July 25, 2018, to all counsel of record as indicated below.



JOHN P. CONNORS, JR. (6514)

TO: David Horowitz, P.C.
Attorneys for Plaintiff
171 Madison Avenue
Suite 1300
New York, NY 10016
Tel. 212.684.3630

FILED: NEW YORK COUNTY CLERK 05/29/2018 11:32

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
-----Index No:
Date Purchased:

MARIA RAJACIC,

Plaintiff,

Plaintiff designates
NEW YORK County as
Place of Trial
Basis of venue is:
Residence of defendant

-against-

COSTCO WHOLESALE CORPORATION,

SUMMONS

Plaintiff Residence:
609 Wainwright Avenue
Staten Island, New YorkDefendant

To the above named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: May 24, 2018

DAVID HOROWITZ, P.C.

By: 

GLORIA DRELICH

171 Madison Avenue
New York, New York 10016
(212) 684-3630

Defendants' Address:

COSTCO: c/o CT Corporation System, 111 Eighth Avenue, New York, New York.

A

FILED: NEW YORK COUNTY CLERK 05/29/2018 11:32

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MARIA RAJACIC,

Plaintiff,

-against-

VERIFIED COMPLAINT

COSTCO WHOLESALE CORPORATION,

Defendant

Plaintiff, complaining of the defendant by her attorney,
DAVID HOROWITZ, P.C., respectfully alleges upon information and
belief as follows:

1. That at all times herein mentioned, the defendant
COSTCO WHOLESALE CORPORATION, was a foreign business corporation,
licensed to do business in the State of New York.

2. That on March 18, 2018, the defendant, COSTCO
WHOLESALE CORPORATION, was the owner of a business located at 2975
Richmond Avenue, Staten Island, New York, known as COSTCO.

3. That on March 18, 2018, defendant COSTCO WHOLESALE
CORPORATION, INC., was the lessee of a store located at 2975
Richmond Avenue, Staten Island, New York, known as COSTCO.

4. That on March 18, 2018, defendant COSTCO WHOLESALE
CORPORATION, INC., owned the business located at 2975 Richmond
Avenue, Staten Island, New York, known as COSTCO.

5. That on March 18, 2018, the defendant COSTCO
WHOLESALE CORPORATION operated a store located at 2975 Richmond
Avenue, Staten Island, New York, known as COSTCO.

FILED: NEW YORK COUNT. CLERK 05/29/2018 11:32

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

6. That on March 18, 2018, the defendant COSTCO WHOLESALE CORPORATION, INC., maintained a store located at 2975 Richmond Avenue, Staten Island, New York, known as COSTCO.

7. That on March 18, 2018, the defendant COSTCO WHOLESALE CORPORATION, supervised a store located at 2975 Richmond Avenue, Staten Island, New York, known as COSTCO.

8. That on March 18, 2018, the defendant COSTCO WHOLESALE CORPORATION, managed a store located at 2975 Richmond Avenue, Staten Island, New York, known as COSTCO.

9. That on March 18, 2018, the defendant COSTCO WHOLESALE CORPORATION, controlled a store located at 2975 Richmond Avenue, Staten Island, New York, known as COSTCO.

10. That on or March 18, 2018 at approximately 10:00A.M. plaintiff MARIA RAJACIC, was lawfully, legally and carefully on said premises as a business invitee in the vegetable area in the store.

11. That while plaintiff was lawfully, legally and carefully on said premises as a business invitee, she was caused to slip, fall and be precipitated to the ground on a strawberry left on the selling floor.

12. That the defendant was negligent in the ownership, operation, maintenance, supervision and control of its business premises and more specifically, the vegetable area; in failing to inspect; in failing to clean the floor; in failing to mop the floor; in creating a slip and fall hazard; in failing to maintain a proper cleaning schedule; in failing to protect those lawfully on the

FILED: NEW YORK COUNTY CLERK 05/29/2018 11:32

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

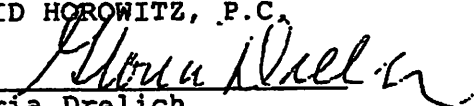
premises from dangerous conditions; in failing to give notice; in failing to give warning; in failing to provide a safe place to shop; in setting a trap for plaintiff; in failing to supervise its employees; and in failing to avoid the occurrence although there was an opportunity to do so.

13. That by reason of the foregoing, the plaintiff, MARIA RAJACIC, sustained severe, serious, permanent, painful, internal and external injuries to her body, limbs, person, nerves, tissues, etc.; was rendered incapacitated and unable to attend to her usual duties; was required to seek medical aid and assistance, and upon information and belief, some of the aforesaid injuries are permanent.

14. That by reason of the foregoing, plaintiff, MARIA RAJACIC, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendant in an amount which exceeds the jurisdictional limits of all lower courts that would otherwise have together with the costs and disbursements of this action.

DAVID HOROWITZ, P.C.

By: 
Gloria Drelich
171 Madison Avenue
New York, N.Y. 10016
(212) 684-3630

FILED: NEW YORK COUNTY CLERK 05/29/2018 11:32

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

ATTORNEY'S VERIFICATION

GLORIA DRELICH, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury: I am an attorney at **DAVID HOROWITZ, P.C.**, attorneys of record for Plaintiff(s) **MARIA RAJACIC**. I have read the annexed **COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because my Plaintiff(s) is/are not presently in the county wherein I maintain my offices.

Dated: New York, New York
May 24, 2018


GLORIA DRELICH, ESQ.

FILED: NEW YORK COUNTY CLERK 05/29/2018 11:32 AM

INDEX NO. 154976/2018

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 05/29/2018

Index No.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

MARIA RAJACIC,

Plaintiff,

against

COSTCO WHOLESALE CORPORATION.

Defendants

SUMMONS AND COMPLAINT

DAVID HOROWITZ, P.C.

Attorneys for Plaintiff

171 Madison Avenue, Suite 1300

New York, New York 10016

(212) 684-3630

Pursuant to 22 NYCRR 130 1.1., the undersigned, an attorney admitted to practice in the courts of the State of New York, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: May 24, 2018


GLORIA DRELICH, ESQ.

FILED: NEW YORK COUNTY CLERK 06/06/2018 05:45 PM

INDEX NO. 154976/2018.

NYSCEF DOC. NO. 2

RECEIVED NYSCEF: 06/06/2018

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
MARIA RAJACIC,

Index No. 154976/2018

Plaintiff,

VERIFIED ANSWER

-against-

COSTCO WHOLESALE CORPORATION,

Defendant.
-----X

S I R S:

PLEASE TAKE NOTICE, that the defendant, COSTCO WHOLESALE CORPORATION, by its attorneys, CONNORS & CONNORS, P.C., answering the Summons and Complaint herein, states as follows:

1. Admits each and every allegation of the complaint set forth in paragraphs 1 and 3.
2. Denies each and every allegation of the complaint set forth in paragraphs 2, 4, 5, 6, 7, 8 and 9, except admits that Costco owned and operated a warehouse open to its members at 2975 Richmond Avenue, Staten Island, New York.
3. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations of the complaint set forth in paragraphs 10 and 11.
4. Denies each and every allegation of the complaint set forth in paragraphs 12, 13 and 14.

PLEASE TAKE FURTHER NOTICE, that the following affirmative defenses are set forth as follows:

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The personal injuries alleged to have been sustained by the plaintiff were caused in

whole or in part as a result of the culpable conduct attributable to the plaintiff, including, but not limited to, plaintiff's contributory negligence and/or assumption of the risk, and the defendant seeks a reduction of any recovery had by the plaintiff in the proportion which the culpable conduct attributable to the plaintiff bears to the culpable conduct which caused the damages.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

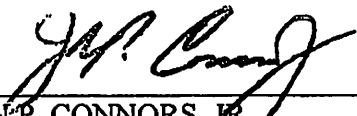
Upon information and belief, plaintiff's economic loss, if any, as specified in Section 4545 of the CPLR, was or will be replaced or indemnified, in whole or in part, from collateral sources, and this answering defendant is entitled to have the court consider the same in determining such special damages as provided in Section 4545 of the CPLR.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate damages and failed to follow the advice of her treating physicians.

W H E R E F O R E, defendant, COSTCO WHOLESALE CORPORATION, demands judgment dismissing the plaintiff's complaint against it, together with the costs and disbursements of this action, and for any expenses incurred by it in the defense thereof, including attorney's fees.

Dated: Staten Island, New York
 June 6, 2018


 JOHN P. CONNORS, JR.
 CONNORS & CONNORS, P.C.
 Attorneys for Defendant
 COSTCO WHOLESALE CORPORATION
 766 Castleton Avenue
 Staten Island, NY 10310
 Tel. 718.442.1700
 File No.: DCW 26625

FILED: NEW YORK COUNTY CLERK 06/06/2018 05:45 PM

INDEX NO. 154976/2018.

NYSCEF DOC. NO. 2

RECEIVED NYSCEF: 06/06/2018

TO: David Horowitz, P.C.
Attorneys for Plaintiff
171 Madison Avenue
Suite 1300
New York, NY 10016
Tel. 212.684.3630

ATTORNEY'S VERIFICATION

[illegible]

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York, hereby state that I am an associate with the Law Firm of Connors & Connors, P.C., the attorneys of record for the defendant COSTCO WHOLESALE CORPORATION, in the within action. I have read the foregoing **VERIFIED ANSWER** and know the contents thereof, the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The grounds of my belief as to all matters not stated upon my own knowledge are based on information contained in my file, correspondence, etc. The reason this Verification is made by me and not by the Defendant is that the Defendant does not reside in the County wherein Connors & Connors maintain their offices.

I affirm that the foregoing statements are true, under the penalties of perjury.

**Dated: Staten Island, New York
June 6, 2018**

JOHN P. CONNORS, JR.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
 : SS.:
COUNTY OF RICHMOND)

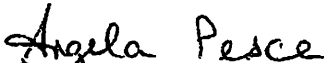
MILDRED ROBLES, being duly sworn, says: I am not a party to the action, am over 18 years of age and reside at Staten Island, New York.

On June 6, 2018, I served the within, **VERIFIED ANSWER**, by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

TO: David Horowitz, P.C.
Attorneys for Plaintiff
171 Madison Avenue
Suite 1300
New York, NY 10016
Tel. 212.684.3630


MILDRED ROBLES

Sworn to before me this
6th day of June, 2018



Notary Public

ANGELA PESCE
Notary Public, State of New York
No. 01PE6234726
Qualified in Richmond County
Commission Expires January 24, 2019

Index No. 154976/2018 RJ1 Hon.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MARIA RAJACIC,
Plaintiff(s),
-against-
COSTCO WHOLESALE CORPORATION,
Defendant(s).

VERIFIED ANSWER

CONNORS & CONNORS, P.C.
Attorneys for Defendant – COSTCO WHOLESALE CORPORATION
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130.1.1-a)


JOHN P. CONNORS, JR.

Attorney(s) for

Service of a copy of the within

is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order
settlement to the HON.
of the within named court, at
on

of which the within is a true copy will be presented for
one of the judges

at ____ M

Dated,

Yours, etc.

CONNORS & CONNORS, P.C.
Attorneys for Defendant – COSTCO WHOLESALE CORP.
Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310

To

Attorney(s) for